

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 03-2951

United States of America,

Appellee,

v.

John Douglas Clark,

Appellant.

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Appeal from the United States
District Court for the
Northern District of Iowa.

[UNPUBLISHED]

Submitted: May 5, 2004

Filed: May 10, 2004

Before BYE, McMILLIAN, and RILEY, Circuit Judges.

PER CURIAM.

John Clark pleaded guilty to manufacturing and attempting to manufacture 50 grams or more of actual methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(A), and 846. The district court¹ reduced Clark's offense level by 2 levels for acceptance of responsibility, but denied an additional 1-level reduction under U.S.S.G. § 3E1.1(b) because his notice of intent to plead guilty was untimely. The court sentenced him to 140 months imprisonment and 5 years supervised release, and

¹The Honorable Linda R. Reade, United States District Judge for the Northern District of Iowa.

stated it would have imposed the same sentence if it had granted the additional reduction.

Clark now argues that he qualified for the additional 1-level reduction, but we conclude that this issue is unreviewable. See United States v. Simpkins, 953 F.2d 443, 446 (8th Cir.) (where sentence imposed falls within Guidelines range urged by appellant and it is clear sentencing court would have imposed same sentence regardless whether appellant's argument for lower Guidelines range ultimately prevailed, matter is not reviewable), cert. denied, 504 U.S. 928 (1992).

Accordingly, we affirm.
